

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

Mohawk Industries, Inc.,
Employer,
and

Case No. 10-RD-209088

Workers United, Southern Regional Joint Board,
an affiliate of SEIU, and its Local 294-T,
Union,
and

Tia Lemon,
Petitioner.

PETITIONER TIA LEMON'S REQUEST FOR REVIEW

Pursuant to National Labor Relations Board ("NLRB") Rules and Regulations §§ 102.67 and 102.71, Petitioner Tia Lemon ("Petitioner" or "Lemon") submits this Request for Review of the Regional Director's administrative dismissal of her decertification petition without a hearing pursuant to the Board's current "blocking charge" policies (Ex. A). The current "blocking charge" regime halts decertification elections and dismisses decertification petitions based upon a union's unproven and contested allegations of an employer's unfair labor practice ("ULP"). This is contrary to the National Labor Relations Act ("NLRA" or "Act") stated purpose of employees' "full freedom of association, self-organization, and designation of representatives *of their own choosing*." 28 U.S.C. § 151 (emphasis added).

Petitioner submits, pursuant to NLRB Rules and Regulations §102.67(d)(4), that the current one-way blocking charge regime has proven to be a detriment to employee free choice, and should be immediately overturned. The Board should decide, in order to uphold the "bedrock principles of employee free choice and majority rule," *Gourmet Foods, Inc.*, 270 NLRB 578, 588 (1984) (Member Dennis, concurring), the dismissal of decertification petitions

based on unproven charges and without a hearing should be overhauled. This is a case of nationwide importance, because decertification petitions are regularly held in abeyance and/or dismissed based on the Board's current policies. For this reason, this case and the existing flawed policies are especially worthy of being reviewed by this Board.

FACTS

This case perfectly illustrates the inequality of the Board's current treatment of union "blocking" charges and employees' Section 7 rights. Petitioner collected a showing of interest and filed her decertification petition with the Board on November 1, 2017. Because she was collecting this petition, Lemon's exclusive representative, Workers United, Southern Regional Joint Board, an affiliate of SEIU, and its Local 294-T ("Union"), threatened and attempted to have her fired by her employer Mohawk Industries, Inc. ("Mohawk"). Union agents also distributed flyers and surveilled Lemon in an effort to chill employee free choice and intimidate those who would sign and/or circulate the petition. Despite these unlawful actions by the Union, Lemon persisted, collected the requisite showing of interest, and filed her petition. Lemon also filed an unfair labor practice charge against the Union regarding these unlawful activities, which remains pending. (Ex. B, Case No. 10-CB-208786). Mohawk filed similar charges. (Ex. C).

Predictably, on November 7, 2017, the Union filed blocking charges alleging that the petition was irrevocably tainted by Mohawk's conduct. The Union's charges allege that Mohawk unlawfully assisted with Lemon's decertification petition efforts (as though it is impossible to imagine that employees might want to oust the union of their own free volition). Based on these unproven allegations (and notwithstanding the egregious actions of the Union set forth in Lemon and Mohawk's pending ULP charges), the Region "blocked" Lemon's decertification petition. (Ex. D).

The Region, pursuant to longstanding and one-sided Board policy, dismissed the portions of Lemon's and Mohawk's charges alleging that the Union engaged in unlawful and coercive conduct by surveilling employees and making coercive statements regarding those who supported decertification as not violating Section 8(b)(1)(A). *See* (Ex. E). The Region found conduct creating the impression of monitoring alleged by the Union against Mohawk sufficient to violate Section 8(a)(1). (Ex. F at 5, 7).

The Region then attempted to settle all three unfair labor practice charges, again giving more credence to the Union's charges than those of Lemon and Mohawk. The Region required any settlement of the Union's charge to contain an employer admissions clause, while at the same time providing a consolidated settlement for Lemon's and Mohawk's charges containing an express non-admissions clause for the Union. Lemon and Mohawk have opposed the Region's one-sided settlement of their ULP charges.

On April 30, 2018, the Region issued a complaint based on the allegations in the Union's charges. (Ex. F.). Based on the issuance of that complaint, the Region dismissed Lemon's decertification petition on May 2, 2018, finding further proceedings unwarranted because the Region's complaint alleges that Mohawk's conduct tainted the petition. (Ex. A). As of the date of filing, Petitioner has no information as to whether the Region will enter into the settlement of hers and Mohawk's charges over the strenuous objections of both charging parties. The Union, having failed to stomp out the decertification effort by threatening Lemon's employment and engaging in coercive behavior, is now using the one-way "blocking" charge policies to stifle all further dissent.

These pro-union practices and actions have real-world consequences and will have long-term effects on any decertification election in the future. The Union is currently using the

Region's dismissal as further ammunition to stamp out Petitioner's decertification effort and sway those who may otherwise vote against the Union's representation. Such Union conduct will certainly "taint" this or any other decertification effort in the future, to the detriment of employees' Sections 7 and 9 rights.

ARGUMENT

In Alice in Wonderland, the Queen proclaimed, "Sentence first—verdict afterwards." The Board's "blocking charge" policies would be at home in Wonderland, since in this and other decertification efforts, the Board pronounces the "dismissal of the petition" before any hearing on the "blocking" ULP charge.

Such a policy is contrary to the Act and the Board's purpose. The Board exists, in substantial part, to conduct elections and thereby vindicate employees' rights under the Act to choose or reject union representation. 29 U.S.C. § 159. This authority does not include the ability to dismiss decertification petitions at the unilateral behest of a union that fears loss of its bargaining unit based on unproven and contested unfair labor practice allegations. *C.f. General Shoe Corp.*, 77 NLRB 124, 126 (1948) (holding the Board should exercise its power to set aside an election "sparingly" because it cannot "police the details surrounding every election" and the secrecy in Board elections empowers employees to express their true convictions). This treatment of Union blocking charges is in stark contrast to the Board's handling of employer and employee ULP charges against a union in a certification proceeding and its recent policy of rushing all *certification* petitions to an election while prohibiting "blocks" under any circumstances. *See Representation-Case Procedures*, 79 Fed. Reg. 74308, 74430–74460 (Dec. 15, 2014).

Here, Petitioner's and other employees' exercise of their Sections 7 and 9 rights to have an election to decide whether they want Union representation have been given short shrift by the Region based on the Union's unproven allegations—and despite the Union's own egregious and unlawful conduct.

The Board should terminate its preferential treatment of union-filed charges and union-filed certification elections, and give the same credence to decertification elections and employee and employer-filed charges. In doing so, it must order Petitioner's election to proceed and follow former Chairman Miscimarra's urging to implement an immediate and wholesale revision of the “blocking charge” policies. *Cablevision Systems Corp.*, Case 29-RD-138839, *1 n.1 (June 30, 2016) (Order Denying Review); *see also Valley Hosp. Med. Ctr., Inc. & SEIU Local 1107*, 28-RD-192131, 2017 WL 2963204 (Order Denying Review, July 6, 2017); *Baltimore Sun Co. v. NLRB*, 257 F.3d 419, 426 (4th Cir. 2001) (noting Section 7 “guards with equal jealousy employees' selection of the union of their choice and their decision not to be represented at all”).

A. The Board's “blocking charge” policy is not found in and is inconsistent with the Act.

Employees' ability to choose whether to be represented and by whom is of paramount concern under the NLRA, and should not be denied based on arbitrary rules, “bars,” or “blocks” created by the Board long ago and encrusted onto the Act. *See Pattern Makers' League v. NLRB*, 473 U.S. 95, 104 (1985); *Lechmere, Inc. v. NLRB*, 502 U.S. 527, 532 (1992) (noting Section 7 confers rights only on employees, not unions and their organizers); *see also Lee Lumber & Bldg. Material Corp. v. NLRB*, 117 F.3d 1454, 1463 (D.C. Cir. 1997) (Sentelle, J., concurring) (noting employee free choice is the “core principle of the Act” (quotation marks and citation omitted)). The Act protects “the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing.” 28 U.S.C. § 151.

Consistent with this purpose, Section 7 provides: “Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing [and] the right to refrain from any or all of such activities” 29 U.S.C. § 157.

Section 9 provides the mechanism for petitioning for a representation election, through which employees can designate (or not designate) their representative. It directs the Board to investigate the petition and direct a hearing if it “has reasonable cause to believe that a question of representation affecting commerce exists” and, if the Board finds such a question exists, to conduct a secret ballot election. 29 U.S.C. § 159(c)(1). The blocking charge policies are found nowhere in this simple directive to investigate petitions and hold elections.

In carrying out the Act’s election mandates, the Board is constrained by Section 9(c)(2), which provides:

In determining whether or not a question of representation affecting commerce exists, the same regulations and rules of decision shall apply irrespective of the identity of the persons filing the petition or the kind of relief sought and in no case shall the Board deny a labor organization a place on the ballot by reason of an order with respect to such labor organization or its predecessor not issued in conformity with section 160(c) of this title.

29 U.S.C. § 159(c)(2). This provision can be broken down into two main requirements. First, the Board may not implement different rules and regulations regarding the investigation of an election petition, regardless of whether it is a certification or decertification election. Second, the Board cannot block a labor organization from being on a ballot without a Board order subject to Section 160(c). Section 9(c)(2) does not differentiate between when a labor organization is on a ballot for the purposes of a certification or whether it is on the ballot for purposes of decertification. It merely states that a “labor organization cannot be blocked from being on a ballot *without a Board order subject to Section 160(c).*” *Id.* (emphasis added).

Pursuant to Section 160(c), the Board may issue an order after taking testimony on the complaint, either requiring a person *named in the complaint* to cease and desist an unfair labor practice, or an order dismissing the complaint. 29 U.S.C. § 160(c). Thus, a complaint must be issued and testimony taken for an order to be issued subject to Section 160(c). The mere issuance of a complaint cannot block a labor organization from appearing on a ballot. Instead, a complaint must be issued, testimony taken, and a Board order issued. The Board’s “blocking charge” policies regarding decertification impermissibly block a labor organization from appearing on the ballot via administrative decision, an order that is not compliant with Section 160(c). Thus, the one-sided blocking policies and the dismissal of a petition pursuant thereto are not a valid exercise of Board authority under Section 9(c)(2).

Moreover, in order to comply with the first mandate of Section 9(c)(2), the Board is required to have *the same* regulations and procedures for decertification elections if it implements rules and/or regulations regarding the conduct of certification elections. While the current policies seem facially neutral, the Board has, in effect, implemented two distinct policies for the investigation of representation petitions based on the relief sought—i.e., the policies for decertification elections, which stop an investigation of a petition and delay any election until the resolution of the blocking charge, and the policies for certification elections, which allow an investigation of a petition and an election based on that petition, with any challenges resolved at the end. The application of two different procedures based solely on the “identity of the persons filing the petition or the kind of relief sought” violates Section 9(c)(2).

For these reasons, the Board’s blocking charge policies, and the dismissal of Lemon’s petition pursuant to these policies, violate the express requirements of the Act.

B. The Board’s discretionary “blocking charge” regime infringes on employees’ rights and should be overhauled.

As discussed, the Board’s blocking charge policy directly conflicts with the text of the Act. Assuming, *arguendo*, that the Board’s policy does not so conflict, the Board should nevertheless reevaluate its current discretionary blocking charge rules. *See Am. Metal Prods. Co.*, 139 NLRB 601, 604-05 (1962) (directing an election despite pending union-filed ULP charges in order to effectuate the policies of the Act); *see also* NLRB Casehandling Manual (Part Two) Representation Sec. 11730 *et seq.* (setting forth in detail the “blocking charge” procedures).

Discretionary Board policies should be reevaluated when industrial conditions warrant. *See, e.g., IBM Corp.*, 341 NLRB 1288, 1291 (2004) (holding the Board has a duty to adapt the Act to “changing patterns of industrial life” and the special function of applying the Act’s general provisions to the “complexities of industrial life”) (citation omitted)). Given that a prior Board majority decided to rush all certification petitions to fast elections and hold objections and challenges until afterwards, 79 Fed. Reg. 74308 (Dec. 15, 2014), the current Board should adopt neutral and balanced policies and procedures that treat decertification petitions the same way. This is particularly true because the preferred forum for employees to exercise their free choice rights, be it in a certification or decertification election, is in an NLRB conducted secret-ballot election. *Levitz Furniture Co. of the Pac., Inc.*, 333 NLRB 717, 725-26 (2001). Such elections enhance industrial peace by ensuring the employees actually support the workplace representative empowered exclusively to speak for them. Any policy on decertification elections should promote the NLRA’s interest in employee choice through secret ballot elections.

The Board’s current “blocking charge” policy often prevents decertification elections even where the employees may not even be aware of the alleged employer misconduct, the

employees themselves are accused of the wrongdoing and can disprove it or the employees' longstanding disaffection from the union springs from wholly independent sources that predate the alleged infractions. The use of "presumptions" to halt decertification elections serves only to entrench unpopular incumbent unions, thereby forcing an unwanted representative on employees.

Judge Sentelle's concurrence in *Lee Lumber* illustrates the point:

[T]he Board, in the face of th[e Act's] core principle [of employee free choice], presumes that the employees are incapable of exercising their core right because they might have been deceived To presume that employees are such fools and sheep that they have lost all power of free choice based on the acts of their employer, bespeaks the same sort of elitist Big Brotherism that underlies the imposition of the invalid bargaining order in this case. Consider anew the facts before us. In 1990, 85.7 percent of the employees of the bargaining unit signed a petition asking for a chance to exercise their free choice. Seven years later, those employees still have not had the election they sought because the Board presumes that the employers' refusal for a few days to bargain with the Union thoroughly fooled those poor deluded employees to such a point that neither the Union nor anyone else could possibly educate them of the truth known only to their Big Brother, the Labor Board.

Lee Lumber, 117 F.3d at 1463-64 (Sentelle, J., concurring). Such a policy has no basis in the Act, its purpose or in common sense.

The Board's continued practice of delaying and denying only decertification elections based upon blocking charges has faced severe judicial criticism. In *NLRB v. Minute Maid Corp.*, the Fifth Circuit stated:

[T]he Board is [not] relieved of its duty to consider and act upon an application for decertification for the sole reason that an unproved charge of an unfair practice has been made against the employer. To hold otherwise would put the union in a position where it could effectively thwart the statutory provisions permitting a decertification when a majority is no longer represented.

283 F.2d 705, 710 (5th Cir. 1960); *see also Surratt v. NLRB*, 463 F.2d 378 (5th Cir. 1972) (rejecting application of the blocking charge policy); *Templeton v. Dixie Printing Co.*, 444 F.2d 1064 (5th Cir. 1971) (same); *NLRB v. Gebhardt-Vogel Tanning Co.*, 389 F.2d 71, 75 (7th Cir. 1968) (quoting *Minute Maid Corp.*, 283 F.2d at 710); *T-Mobile USA Inc. v. NLRB*, 717 F. App'x

1, 4 (D.C. Cir. 2018) (Sentelle, J., dissenting) (noting the Board’s blocking charge policy causes “unfair prejudice”).

The Board should take administrative notice of its own statistics, which show approximately 30% of decertification petitions are “blocked,” whereas certification elections are *never* blocked for any reason. See NLRB, *Annual Review of Revised R-Case Rules*, <https://www.nlr.gov/sites/default/files/attachments/news-story/node-4680/R-Case%20Annual%20Review.pdf>. In stark contrast to its treatment of decertification petitions, the Board conducts all certification elections first, counts the ballots, and settles any objections or challenges afterwards. If the Board can hold all objections and challenges to certification petitions until afterwards, it surely can do the same for decertification petitions. The Board must enforce a system whereby employees seeking decertification elections are afforded the same rights as employees seeking a certification election.

Moreover, the Board’s policy gives greater credence to union-filed ULPs over those filed by an employee or an employer, without regard to the severity of each charge. Unions can run roughshod over a decertification petitioner’s and her fellow employees’ Sections 7 and 9 rights without fear that their illegal actions will immediately affect the petition and any election that might result, as employer and employee-filed charges have no bearing on the timing of an election. At the same time, union-filed charges almost inevitably delay or ultimately block a petitioner’s election from proceeding. This one-sided policy is particularly egregious in this case, where the Union threatened and attempted to have Lemon terminated for her protected activities.

Here, by dismissing the petition and failing to hold an election, the Regional Director wrongly treats Petitioner and her fellow employees like children who cannot make up their own

minds. The Regional Director's application of the "blocking charge" policies ignored, and continues to ignore, Petitioner's and her fellow bargaining unit members' stated wish to exercise their right to be free from the Union's representation. Even assuming, *arguendo*, the Employer actually committed the violations as alleged in the new ULPs, "[t]he wrongs of the parent should not be visited on the children, and the violations of [the employer] should not be visited on these employees." *Overnite Transp. Co.*, 333 NLRB 1392, 1398 (2001) (Member Hurtgen, dissenting); *see also Cablevision Systems Corp.*, Case 29-RD-138839 (June 30, 2016) (Order Denying Review) (Member Miscimarra, dissenting). The Region, by reflexively dismissing her petition, ignores the fact that Petitioner persisted in her decertification efforts despite the Union unlawfully attempting to have her terminated. Her efforts and intentions in the face of the Union's egregious conduct should not be disregarded based on unproven allegations against her employer.

In short, the Board should order Region 10 to proceed to an immediate election without further delay. Petitioners and her colleagues are not sheep, but responsible, free-thinking individuals who should be able to make their own free choice about unionization. The employees' paramount Section 7 and 9 rights are at stake, and their rights should not be so cavalierly discarded because their Employer is alleged to have committed mistakes under labor laws. Petitioner urges the Board to overrule or overhaul its "blocking charge" policies to protect the Act's true touchstone—employees' paramount Section 7 free choice rights. *Int'l Ladies Garment Workers v. NLRB*, 366 U.S. 731, 737 (1961) (holding "there could be no clearer abridgment of § 7 of the Act" than for a union and employer to enter into a collective bargaining relationship when the union lacks a majority of employees support).

CONCLUSION

The Board should grant Petitioner's Request for Review and order the Regional Director to process this decertification petition, hold an election, and count the ballots. In addition, the Board should overrule or substantially overhaul its "blocking charge" policy.

Respectfully submitted,

/s/Alyssa K. Hazelwood

Alyssa K. Hazelwood

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Glenn M. Taubman

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Counsel for Petitioner

Exhibit A



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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Winston Salem, NC 27106-3275

Agency Website: www.nlrb.gov
Telephone: (336)631-5201
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May 2, 2018

Alyssa K. Hazelwood, Staff Attorney
c/o National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Rd, Ste 600
Springfield, VA 22160-0002

John C. Scully, Esq.
National Right to Work Legal Defense Foundation
8001 Braddock Road, Suite 600
Springfield, VA 22160

Re: Mohawk Industries, Inc.
Case 10-RD-209088

Dear Ms. Hazelwood and Mr. Scully:

The above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

Decision to Dismiss: As a result of the investigation of the unfair labor practice charges in Cases 10-CA-209405 and 10-CA-212989, I find that further proceedings on the decertification petition are unwarranted. The investigation of those charges disclosed evidence that the Employer assisted the decertification process by soliciting employees to sign the decertification petition, instructing employees to solicit other employees to sign the petition, interrogating employees with respect to the petition, promising employees benefits if they signed the petition or decertified the Union, threatening employees with unspecified reprisals if they did not sign the decertification petition, creating the impression among its employees that the Employer was monitoring who had signed the decertification petition, allowing employees to be outside their designated work areas for the purpose of soliciting employees to sign the petition, and transferring the Petitioner to a shift other than her own for the purpose of soliciting employees to sign the petition. In considering the totality of the evidence presented, the Region has concluded that the Employer's involvement constituted unlawful assistance to the decertification effort and tainted the petition. See *SFO Good-Nite Inn*, 357 NLRB 79 (2011), enf'd. 700 F.3d 1 (D.C. Cir. 2012); Casehandling Manual (Unfair Labor Practice Cases) Section 11733.2(a)(1).

Having found that the Employer's conduct tainted the petition, further proceedings on the petition are unwarranted. Accordingly, I am dismissing the petition. The petition is subject to

reinstatement, if appropriate, after final disposition of the charges in Cases 10-CA-209405 and 10-CA-212989.

The Region issued a consolidated complaint in Cases 10-CA-209405 and 10-CA-212989 on April 30, 2018 and we have made the Petitioner a party of interest in that proceeding with an interest limited solely to receipt of a copy of the order or other document that operates to finally dispose of the unfair labor practice proceeding. See Casehandling Manual (Representation Proceedings) Section 11733.2(b).

Right to Request Review: Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (5 p.m. Eastern Time) on **May 16, 2018**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time** on May 16, 2018.

Consistent with the Agency's E-Government initiative, parties are encouraged, but not required, to file a request for review electronically. Section 102.114 of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the Efiling system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement

that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Very truly yours,

John D. Doyle Jr.
Regional Director

By: 

Scott C. Thompson
Officer in Charge

cc: Office of the Executive Secretary (by e-mail)

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Exhibit B

5

UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD		DO NOT WRITE IN THIS SPACE	
FIRST AMENDED CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS		Case 10-CB-208786	Date filed
INSTRUCTIONS: File an original of this charge with the NLRB Regional Director of the region in which the alleged unfair labor practice occurred or is occurring.			
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name Workers United, SEIU		b. Union Representative to Contact Darnell Meadors, Local Mill Chair	
c. Address PO Box 368, Eden, NC 27289-0368		d. Tel. No.	e.e. Cell No.
		f. Fax No.	g. e-Mail
h. The above-named labor organization or its agents have engaged in and are engaging in unfair labor practices within the meaning of section 8(b), subsections (1)(A) and (2), of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
<p>Since about October 2017, the Union has watched employees in an effort to intimidate them against engaging in protected concerted activities.</p> <p>In about October 2017, the Union, by Local Vice President Darnell Meadors, attempted to get the Employer to discharge employee Tia Lemon in retaliation for her protected concerted activities.</p> <p>Within the past six month, the Union has made coercive statements, through leaflets distributed to employees, in an effort to intimidate them against engaging in protected concerted activities.</p>			
3. Name of Employer Mohawk Industries Inc.		4a. Tel. No.	4b. Cell No.
		4c. Fax No.	4d. e-Mail
5. Location of Plant involved (street, city, state, and ZIP code) 712 Henry St, Eden, NC 27288-6144		6. Employer representative to contact Darin Quesinberry, Plant Manager	
7. Type of Establishment (factory, mine, wholesaler) Plant	8. Principal product or service Flooring		9. Number of Workers employed 100
10. Full name of party filing charge Tia Lemon		11a. Tel. No. (276)224-7277	11b. Cell No.
		11c. Fax No.	11d e-Mail tialafollette@hotmail.com
11. Address of party filing charge (street, city, state, and ZIP code) 35 Atlantic Cir, Martinsville, VA 24112-0385			
12. DECLARATION			
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.			
By:	Tia Lemon	Tel. No. (276)224-7277	
(signature of representative or person making charge)	Print/type name and title or office, if any	Cell No.	
Address: 35 Atlantic Cir, Martinsville, VA 24112-0385		Date:	Fax No.
			e-Mail tialafollette@hotmail.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Exhibit C

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS**

DO NOT WRITE IN THIS SPACE

Case 10-CB-212084	Date Filed 12-22-2017
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INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

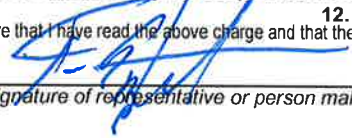
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name Workers United/SEIU, and its Local 294-T	b. Union Representative to contact Anthony Coles	
c. Address (Street, city, state, and ZIP code) 7467 NC Highway 14 Eden NC 27288	d. Tel. No. 336-623-8454	e. Cell No.
	f. Fax No. 338 623-5011	g. e-Mail unitecarva@gmail.com
h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) 8(b)(1), 8(b)(2) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
See Attachment

3. Name of Employer Mohawk Industries	4a. Tel. No. 336 627-6774	b. Cell No.
	c. Fax No. 336 627 6762	d. e-Mail darin_quesinberry@mohawkin d.com
5. Location of plant involved (street, city, state and ZIP code) 712 Henry Street Eden, NC 27288-6144		6. Employer representative to contact
7. Type of establishment (factory, mine, wholesaler, etc.) Rug Mill	8. Identify principal product or service Carpets and Rugs	9. Number of workers employed approximately 230
10. Full name of party filing charge Fredrick Englehart, Esq.	11a. Tel. No. 216 928-2929	b. Cell No.
	c. Fax No. 216 916 2423	d. e-Mail fenglehart@walterhav.
11. Address of party filing charge (street, city, state and ZIP code.) Walter Haverfield, LLP 1301 East 9th St. #3500, Cleveland, OH 44114-1821		

12. DECLARATION
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By  **Fredrick Englehart, Counsel**
(signature of representative or person making charge) (Print/type name and title or office, if any)

Walter|Haverfield, LLP
Address **1301 East 9th St., #3500, Cleveland, OH 44114-1821** (date) **12-22-2017**

Tel. No. 216 928-2929
Cell No.
Fax No. 216 916 2423
e-Mail fenglehart@walterhav.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

1. Darrell Meadors in or about October, 2017 told the petitioner and another employee that the Union would get them fired for circulating a decertification petition;
2. In or about late October, early November, 2017, currently unidentified Union agents/officials told several employees that the Union was going to get a list of the names of employees who signed the petition;
3. Union officials (Darnell Meadors, Thomas Meadors, William Pettigrew, Jeff Totten) in or about November 11, 2017 at a grievance hearing demanded that the Company terminate two employees because they were circulating a decertification petition;
4. Union official Darnell Meadors in October stalked and threatened the petitioner in the employee parking lot;
5. On at least one occasion in or about the period mid-October 2017 through early November, 2017, Darnell Meadors stalked and threatened the petitioner and another employee in the plant by standing against a wall in *commercial aviation* and staring at these two employees as they worked, conduct Meadors continued until a supervisor approached him and asked if had a reason to be out of his department and ordered Meadors to return to work;
6. On or about October, 2017 in the breakroom, Union official Darnell Meadors accompanied by currently unidentified confederates physically blocked the petitioner from speaking with a bargaining unit employee by hovering over the employee so that the petitioner could not speak with the unit employee she was trying to speak with;
7. Union official Phil Cohen, on or about December 8, appeared in a *youtube* video and made coercive, threatening statements about the petitioner.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE

Case 10-CB-216064	Date Filed March 6, 2018
-----------------------------	-----------------------------

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name Workers United/SEIU, and its Local 294-T	b. Union Representative to contact Anthony Coles	
c. Address (Street, city, state, and ZIP code) 7467 NC Highway 14 Eden NC 27288	d. Tel. No. 336-623-8454	e. Cell No.
	f. Fax No. 338 623-5011	g. e-Mail unitecarva@gmail.com
h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) 8(b)(1), 8(b)(2) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

See Attachment

3. Name of Employer Mohawk Industries	4a. Tel. No. 336 627-6774	b. Cell No.
	c. Fax No. 336 627 6762	d. e-Mail darin_quesinberry@mohawkin.com
5. Location of plant involved (street, city, state and ZIP code) 712 Henry Street Eden, NC 27288-6144	6. Employer representative to contact	
7. Type of establishment (factory, mine, wholesaler, etc.) Rug Mill	8. Identify principal product or service Carpets and Rugs	9. Number of workers employed approximately 230
10. Full name of party filing charge Fredrick Englehart, Esq.	11a. Tel. No. 216 928-2929	b. Cell No.
	c. Fax No. 216 916 2423	d. e-Mail fenglehart@walterhav.
11. Address of party filing charge (street, city, state and ZIP code.) Walter Haverfield, LLP 1301 East 9th St. #3500, Cleveland, OH 44114-1821		

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By  Fredrick Englehart, Counsel
(signature of representative or person making charge) (Print/type name and title or office, if any)

Walter|Haverfield, LLP

Address 1301 East 9th St., #3500, Cleveland, OH 44114-1821 (date) 03/06/18

Tel. No. 216 928-2929
Cell No.
Fax No. 216 916 2423
e-Mail fenglehart@walterhav.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

1. Union official Phil Cohen, on or about February 28, appeared in a *YouTube* video and made coercive, threatening statements about the petitioner. Specifically, during the *YouTube* interview, Mr. Cohen posted on the screen a facsimile of an NLRB decision in case no. 10-RD-20988 that identified the petitioner by name. During the interview, Cohen said the following:

I've stood in front of membership meetings and said look this guy or this gal is now in our gun sites and one way or another we are going to take them out and sometimes it takes a year, but once I make that commitment, that person ends up gone.

By these comments and the simultaneous identification of the petitioner, Mr. Cohen violated Sections 8(b)(1), (2).

Exhibit D



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11
4035 University Pkwy Ste 200
Winston Salem, NC 27106-3275

Agency Website: www.nlrb.gov
Telephone: (336)631-5201
Fax: (336)631-5210

November 8, 2017

Tia M Lemon, Weaver Assistant
35 Atlantic Cir
Martinsville, VA 24112

Frederick Englehart, Esq.
Walter & Haverfield LLP
The Tower at Erieview
1301 East 9th St., Suite 3500
Cleveland, OH 44114

Phil Cohen, Special Projects Coordinator
Workers United, an Affiliate of SEIU CTW Local 2610
PO Box 368
Eden, NC 27289-0368

Re: Mohawk Industries
Case 10-RD-209088

Dear Ms. Lemon, Mr. Englehart and Mr. Cohen:

This is to notify you that the petition in the above-captioned case will be held in abeyance pending the investigation of the unfair labor practice charges in Case 10-CA-209405. Therefore, the hearing scheduled for November 13, 2017, has been postponed indefinitely, and you need not submit a statement of position.

Right to Request Review: Pursuant to Section 102.71 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. The request for review shall be submitted in eight copies, unless filed electronically, with a copy filed with the regional director, and all copies must be served on all the other parties. The request must contain a complete statement setting forth facts and reasons upon which the request is based.

Procedures for Filing Request for Review: A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (5 p.m. Eastern Time) on November 22, 2017, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is accomplished by no later than 11:59 p.m. Eastern Time on November 22, 2017.

Consistent with the Agency's E-Government initiative, parties are encouraged, but not required, to file a request for review electronically. Section 102.114 of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review

must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the Efiling system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

The Board may grant special permission for an extension of time within which to file a request for review. A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the regional director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Very truly yours,
Lisa Y. Henderson
Acting Regional Director

By:



Scott C. Thompson
Officer in Charge

cc: Office of the Executive Secretary (by e-mail)

Anthony Coles, Regional Union Representative
Workers United/SEIU, Local 294- T a/w
(Workers United/SEIU)
7467 NC Hwy 14
Eden, NC 27288

Darin Quesinberry, Plant Manager
Mohawk Industries
712 Henry St
Eden, NC 27288-6144

Exhibit E



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11
4035 University Pkwy Suite 200
Winston Salem, NC 27106-3275

Agency Website: www.nlrb.gov
Telephone: (336)631-5201
Fax: (336)631-5210

April 20, 2018

Alyssa K. Hazelwood, Esq.
John C. Scully, Esq.
c/o National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Suite 600
Springfield, VA 22160-0002

Re: Workers United, Southern Regional Joint
Board, an affiliate of SEIU, and its Local
294-T (Mohawk Industries, Inc.)
Case 10-CB-208786

Dear Ms. Hazelwood and Mr. Scully:

We have carefully investigated and considered your charge that Workers United Southern Regional Joint Board and its Local 294-T has violated the National Labor Relations Act.

Decision to Partially Dismiss: Based on that investigation, I have decided to dismiss the portions of the charge alleging that the Union violated Section 8(b)(1)(A) of the Act by watching employees in an effort to intimidate them and by making coercive statements in two leaflets.

You allege that, on various occasions in October and November 2017, that the Union violated Section 8(b)(1)(A) of the Act when several members of the Union's executive board watched employees whom they believed were involved with the decertification petition. The investigation disclosed that the Union agents did not speak to, threaten, or otherwise take any action as they allegedly watched these employees who were acting in the open on the Employer's plant floor and parking lot. This conduct did not violate Section 8(b)(1)(A).

You also allege that the Union violated Section 8(b)(1)(A) of the Act by coercive statements it allegedly made in two leaflets the Union distributed to employees. In the first leaflet, the Union referred to employees who circulated the decertification petition as "management's little pets," and stated that the "little pets will be well taken care of." In the second leaflet, the Union referred to the petitioning employees as "disgruntled employees." A reasonable reading of the first leaflet suggests that the Employer would reward employees who it favored, rather than suggesting that the Union would harm or otherwise take action against the employees. Pursuant to Section 8(c) of the Act, a union is free to state its views on employees who support a decertification petition, as long as the statements are not accompanied by threats of reprisal or force or promises of benefit. Because the Union's leaflets contain no threats of reprisal or force or promises of benefit, I find that the Union did not violate Section 8(b)(1)(A) of the Act as alleged.

I am, therefore, refusing to issue complaint on these allegations of the charge. The remaining Section 8(b)(1)(A) and (2) allegations remain subject to further processing.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal **MAY NOT** be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **May 4, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than May 3, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before May 4, 2018**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after May 4, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

John D. Doyle Jr.
Regional Director

By:



Scott C. Thompson
Officer in Charge

Enclosure

cc: Tia Lemon
35 Atlantic Cir
Martinsville, VA 24112-0385

Darin Quesinberry, Plant Manager
Mohawk Industries Inc.
712 Henry St
Eden, NC 27288-6144

Fredrick W. Englehart, Esq.
Walter Haverfield, LLP
1301 East 9th Street, Ste 3500
Cleveland, OH 44114-1821

Darnell Meadors, Local Vice President
Workers United, SEIU
PO Box 368
Eden, NC 27289-0368

Phil Cohen, Special Projects Coordinator
Workers United, SEIU
PO Box 368
Eden, NC 27289-0368

Exhibit F

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10, SUBREGION 11**

MOHAWK INDUSTRIES, INC.

and

**Case 10-CA-209405
10-CA-212989**

**WORKERS UNITED, SOUTHERN REGIONAL
JOINT BOARD, AN AFFILIATE OF SEIU, AND
ITS LOCAL 294-T**

**ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, **IT IS ORDERED** that Cases 10 CA-209405 and 10-CA-212989, which are based on charges filed by Workers United, Southern Regional Joint Board, an affiliate of SEIU, and its Local 294-T (collectively Union), against Mohawk Industries, Inc. (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1.

(a) The Union filed the charge in Case 10-CA-209405 on November 7, 2017, and a copy was served on Respondent by U.S. mail on November 7, 2017.

(b) The Union filed an amended charge in Case 10-CA-209405 on November 22, 2017, and a copy was served on Respondent by U.S. mail on November 24, 2017.

(c) The Union filed a second amended charge in Case 10-CA-209405 on April 20, 2018, and a copy was served on Respondent by U.S. mail on April 20, 2018.

(d) The Union filed the charge in Case 10-CA-212989 on January 16, 2018, and a copy was served on Respondent by U.S. mail on January 16, 2018.

(e) The Union filed an amended charge in Case 10-CA-212989 on February 16, 2018, and a copy was served on Respondent by U.S. mail on February 16, 2018.

(f) The Union filed a second amended charge in Case 10-CA-212989 on April 20, 2018, and a copy was served on Respondent by U.S. mail on April 20, 2018.

2.

At all material times, Respondent has been a corporation with an office and manufacturing plant in Eden, North Carolina, and has been engaged in manufacturing and the nonretail sale of carpeting and rugs.

3.

In conducting its operations described above in paragraph 2, Respondent annually sold and shipped from its Eden, North Carolina manufacturing plant goods valued in excess of \$50,000 directly to points outside the State of North Carolina.

4.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6.

(a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Darin Quesinberry	—	Plant Manager
Karen Rabren	—	Human Resources Director
Megan Hall	—	Human Resources Manager
Victoria Petty	—	Area Manager
Arty Ayers	—	Supervisor
Lawrence Bradley	—	Supervisor
Jesse Freeman	—	Supervisor

(b) At all material times, Joseph Barragan held the position of Communications Specialist for Respondent and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

(c) On about November 1, 2017, Respondent made an employee of Respondent an agent of Respondent within the meaning of Section 2(13) of the Act for the purpose of soliciting employees to sign a decertification petition for Respondent.

7.

During October 2017 and on November 1, 2017, Respondent assisted employees in obtaining signatures for a decertification petition by allowing employees, in violation of Respondent's work rules, to leave their work areas during their scheduled working hours and to wander about the plant to solicit employees to sign the petition.

8.

Respondent, by Victoria Petty, in Respondent's Eden, North Carolina manufacturing plant:

(a) About late October 2017, in the yarn prep department, interrogated its employees as to whether they would sign the decertification petition.

(b) About late October 2017, in the yarn prep department, (i) interrogated its employees as to whether they would sign a decertification petition; (ii) solicited its employees to sign the decertification petition; and (iii) promised benefits to its employees if they signed the decertification petition by telling employees that it would be "in [their] favor in the long run" if they signed the decertification petition for Respondent.

(c) About November 1, 2017, in the yarn prep department, (i) promised its employees benefits if they decertified the Union by telling employees that Respondent would (1) create more jobs and (2) provide more opportunities for cross-training to employees if they decertified the Union; (ii) interrogated its employees as to whether they would sign a decertification petition; and (iii) solicited its employees to sign the decertification petition for Respondent.

(d) About November 1, 2017, in the yarn prep department, (i) promised its employees benefits if they decertified the Union by (1) telling its employees that, if the Union were decertified, Respondent would give raises to everybody and not to only some departments; and (2) that employees would enjoy more job security if they decertified the Union; (ii) interrogated its employees as to whether they would sign the decertification petition; and (iii) solicited its employees to sign the decertification for Respondent.

(e) About October 31 or November 1, 2017, in the yarn prep department, (i) interrogated its employees as to whether they would sign a decertification petition; (ii) solicited its employees to sign the decertification for Respondent; and (iii) threatened its employees with unspecified reprisals by telling employees that Victoria Petty did not understand why employees with lower seniority would not sign the decertification petition for Respondent.

(f) About October 31 or November 1, 2017, in the yarn prep department, (i) interrogated its employees about (1) whether they had signed a decertification petition and (2) whether other employees would sign the decertification petition; (ii) solicited its employees to (1) sign the decertification petition for Respondent and (2) solicit other employees to sign the decertification petition for Respondent; (iii) created the impression among its employees that Respondent was monitoring who signed the decertification petition by telling employees that only 10 more signatures were needed on the decertification petition by 3:00 p.m. that day; and (iv) promised its employees benefits if they decertified the Union by telling its employees that Respondent would not discharge employees if they decertified the Union.

(g) About October 31 or November 1, 2017, in the yarn prep department, on two separate occasions, solicited its employees to sign the decertification petition for Respondent.

(h) About November 1, 2017, in Victoria Petty's office, (i) interrogated its employees as to whether they would sign a decertification petition; (ii) solicited its employees to sign the decertification petition for Respondent; and (iii) told its employees that Respondent "really needed" employees to sign the decertification for Respondent.

(i) About November 1, 2017, in Victoria Petty's office, (i) interrogated its employees as to whether they had signed a decertification petition; (ii) solicited its employees to sign the decertification petition for Respondent; and (iii) directed an employee to solicit other employees to sign the decertification petition.

9.

(a) About November 1, 2017, Respondent, by Victoria Petty, in Victoria Petty's office in Respondent's Eden, North Carolina manufacturing plant, directed its employee described above in paragraph 6(c) to solicit on Respondent's behalf other employees to sign a

decertification petition for Respondent and, by that conduct, made the employee an agent of Respondent for that purpose.

(b) About November 1, 2017, Respondent, by its employee-agent, in the weave room of Respondent's Eden, North Carolina manufacturing plant, solicited employees to sign the decertification petition for Respondent.

10.

Respondent, by Joseph Barragan, in Respondent's Eden, North Carolina manufacturing plant:

(a) About mid-October 2017, in an upstairs office, (i) interrogated its employees (1) as to whether they would sign a decertification petition and (2) whether other employees had signed the decertification petition; and (ii) solicited its employees to sign the decertification for Respondent.

(b) About the end of October 2017 or November 1, 2017, by the employees' time clock, (i) interrogated its employees about their union support and sympathies; and (ii) by telling employees that the Union did not give employees anything and that it was Respondent who did, told its employees that it would be futile to support the Union and to oppose decertification of the Union.

(c) About the end of October 2017 or November 1, 2017, in the yarn prep department, (i) interrogated its employees as to whether they would sign a decertification petition; (ii) solicited its employees to sign the decertification for Respondent; (iii) solicited its employees to assist other employees with the decertification petition for Respondent; (iv) promised its employees benefits if they decertified the Union by (1) telling employees they could have better positions at work if not for the Union, and (2) telling employees they would "be

allowed to speak” if they decertified the Union; (v) told its employees that Respondent would discharge a supervisor who had provided the Union with information about Respondent’s unlawful assistance to employees circulating the decertification petition; and (vi) threatened to discharge employees who supported and assisted the Union.

11.

About mid-to-late October 2017, Respondent, by Megan Hall, in the wave room in Respondent’s Eden, North Carolina manufacturing plant, (i) interrogated employees as to whether they would sign the decertification; (ii) solicited employees to sign the decertification for Respondent, and (iii) created the impression among its employees that Respondent was monitoring who signed the decertification petition by telling employees that “they needed just a couple more signatures” on the decertification petition.

12.

(a) Beginning about early November 2017, Respondent posted messages on its E-signs throughout its Eden, North Carolina facility, stating the following:

National Labor Relations Board
NOTICE OF PETITION FOR ELECTION

WHAT IS THIS PETITION ABOUT?

The petition provides all Eden “bargaining unit” employees with a right to vote in
a secret ballot election.

The election gives you a choice:
Work together directly to resolve concerns by speaking for yourself
OR

Continue to have the union to make decisions for you

To see the entire petition, ask your supervisor or view it at the time clocks.

(b) By its conduct described above in subparagraph (a), Respondent led its employees to believe that the Board supported its decertification effort.

13.

(a) From October 28 until November 1, 2017, Respondent transferred its employee Tia Lemon from a dayshift to a nightshift.

(b) Respondent engaged in the conduct described above in subparagraph (a), to assist its employees in circulating a decertification petition, to obtain additional employee signatures on the decertification petition for Respondent, and to allow its employee Tia Lemon to solicit employees she had not previously solicited to sign the decertification petition.

14.

By the conduct described above in paragraphs 7 through 12, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

15.

By the conduct described above in paragraph 13, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) and (3) of the Act.

16.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDIES

As part of the remedy for the unfair labor practices set forth above in paragraphs 7 through 13, General Counsel seeks an order requiring Respondent

- To post the Notice to Employees on all of its E-signs throughout Respondent's Eden, North Carolina manufacturing plant, and

- At a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's representative Darin Quesinberry, in the presence of the Respondent's supervisors and agents described above in paragraph 6(a), to read the notice to the employees in English and in other languages if the Regional Director decides that it is appropriate to do so, on worktime in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board Agent read the notice to employees during worktime in the presence of Respondent's supervisors and agents identified above in paragraph 6(a).

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The answer must be received by this office on or before May 14, 2018, or postmarked on or before May 13, 2018. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties. An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than two hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission

could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a PDF document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a PDF file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on September 10, 2018, at 10:00 a.m., in the Paris Favors Jr. Hearing Room, National Labor Relations Board, Region 10, Subregion 11, 4035 University Parkway, Suite 200, Winston-Salem, North Carolina, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form

NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: April 30, 2018

John D. Doyle Jr.
Regional Director
National Labor Relations Board
Region 10, by



Scott C. Thompson
Officer-In-Charge
National Labor Relations Board
Subregion 11
4035 University Pkwy Suite 200
Winston Salem, NC 27106-3275

Attachments

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2018, a true and correct copy of the foregoing Request for Review and Exhibits were filed with the Executive Secretary using the NLRB e-filing system, and copies were sent to the following parties via e-mail, as noted:

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